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| 10/544,162 | 07/29/2005 | Richard A. Steiner | 122-115(US) | 6434 |

21091 7590 06/26/2007
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| EXAMINER |
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CRANE, DANIEL C

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| ART UNIT | PAPER NUMBER |
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3725

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06/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,162

Applicant(s)

STEINER, RICHARD A.

Examiner

Daniel C. Crane

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 5 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 and 16-25 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

REJECTION OF CLAIMS ON FORMAL MATTERS

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure is silent as to the specific configuration defined by the crimping zone center, first pivot axis and the second pivot axis. While the configuration can be labeled triangular, it cannot be deemed either an equilateral triangle or isosceles triangle. Since the drawings are not denoted as to scale, the true proportions of the relationship as claimed cannot be determined. See MPEP 2125. Accordingly, the claimed relationship set out in claim 21 is new matter as not be fully supported by the specification. As to claim 22, the dimensional relationship directed to the "diameter of 0.5 inches" as it relates to one side of the triangle is also unsupported by the original specification. Therefore, the claim is found lacking. With further reference to claim 22, the disclosure fails to provide any details of the base of the triangle as having a diameter of 0.5 inches. Therefore, the description where the "diameter of 0.5 inches in the base of the triangle" is unsupported by the original disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "...comprising a diameter of 0.5 inches in the base of the triangle" is unclear. Accordingly, the subject matter is indefinite.

REJECTION OF CLAIMS OVER PRIOR ART

Claims 4, 16-20 and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Wagner (6,739,172). Wagner illustrates a crimping tool in Figures 1 and 5 comprising a first elongated handle, 37, 44, a second elongated handle 38, 45 pivotally connected to the first handle at 43, a first clamping jaw 1, a second clamping jaw 2 each clamping jaw being of substantially identical construction (see Figures 1 and 5 and column 2, lines 49-51), a first crimping zone 5 with a semi-circular recess (see column 2, lines 44-48, a second crimping zone with a semi-circular recess, a first pivot axis 16, a second pivot axis 15, a tie plate (unlabeled) extending between the first and second clamping jaw and secured to the first and second pivot axes, a first pivot 35 pinning the first handle to the first clamping jaw and a second pivot 36 pinning the second handle to the second clamping jaw. Since the pivoting motion of the clamping jaws 1 and 2 is effected by a compound leveraging system by rotation of clamping jaws and handles through multiple pivots, increased forces are enabled by the hand manipulable handles. Furthermore, since the motion of the handles and the arrangement of the clamping jaws and their pivot axes and pivot pins relative to the handles in Wagner's tool are identical to that shown and claimed by applicant, it only follows that the forces imparted by the tool as a result of the action

Art Unit: 3725

of the handles will be the same in both the claimed tool and Wagner's tool. Also, applicant's attention is directed to column 5, lines 3 and 4, where "(a)s a result of the lever ratio, this pressing force can be applied by the operator without problem" further indicating the ability of the operator to apply increased force to the workpiece during the crimping operation. As to claims 17 and 18, each clamping jaw 1 and 2 is shown or disclosed as being flat, smooth and toothless. Figure 6 clearly shows surfaces 3 and 4 as being flat, smooth and toothless. Furthermore, column 2, line 44, indicates the surfaces to be "plane end surfaces". Since the recesses 5 and 6 form a "circular receptacle" (column 2, lines 46), it only follows that each recess 5 or 6 is a half circular with "about 180°" terminating at each end of the recess so as to facilitate crimping of a pipe and the release of the crimped pipe. The claim 23 feature is clearly an inherent provision envisioned by Wagner. What constitutes a "minimum" distance of the triangular base is clearly foreseen by Wagner in that Wagner's tool is compact with tight tolerances between the clamping jaws. No spacing exists between the clamping jaws, thus, allowing the pivot axes to be set at a "minimum" distance/length. As to claim 4, when the clamping jaws 1 and 2 are fully opened as shown in Figure 6, a "pivot control" is activated by restricting the extent of opening of the jaws. How the jaws are used as a "gauge" is dependent upon operator handling and does not impart any structural limitation to the crimping tool.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (6,739,172). It is clearly within the purview of the skilled artisan familiar with this field of endeavor and having a level of skill within this art would have recognized the configuring of the crimping zone center, first pivot axis and second pivot axis to be on any triangular shape which

facilitates and takes into account the tool construction, size and jaw configuration. Clearly, the sizing would have determined through routine experimentation to optimize the operability of the tool. Accordingly, the claimed size parameters set out in claim 22 would have been obvious optimizing factors for the basic leveraged tool taught by Wagner.

INDICATION OF ALLOWABLE SUBJECT MATTER

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

RESPONSE TO APPLICANT'S COMMENTS

Applicant's comments have been carefully considered, however, they are moot in light of the new grounds of rejection, such being necessitated by applicant's amendment

FINAL OFFICE ACTION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on

Art Unit: 3725

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


INQUIRIES

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is **(571) 272-4516**. The examiner's office hours are 7:00AM-3:30PM, Monday through Friday.

Documents related to the instant application may be submitted by facsimile transmission at all times to Fax number **(571) 273-8300**. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Examiner's Fax number is **(571) 273-4516**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DCCrane
June 20, 2007



Daniel C. Crane
Primary Patent Examiner
Group Art Unit 3725